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U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SEP - 8 2000
DAVID J. MALAND, CLERK
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ORIGINAL ANSWER

1. No response is required to the introductory paragraph of the Third-Party Complaint.

I.

2. With respect to the allegations contained in Section I of the Third-Party Complaint, MBA admits that it has been served with the Third-Party Complaint in the above-captioned lawsuit. MBA is otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section I of the Third-Party Complaint, and therefore denies those allegations.

II.

3. With respect to the allegations contained in Section II of the Third-Party Complaint, MBA admits that Plaintiff Nathan Jackson filed an Original Petition making a number of allegations and refers to the Original Petition for the contents thereof. MBA further admits that Defendants/Third-Party Plaintiffs have filed a Third-Party Complaint which purports to deny all allegations of the Plaintiff. MBA is otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section II of the Third-Party Complaint, and therefore denies those allegations.

III.

4. With respect to the allegations contained in Section III of the Third-Party Complaint, MBA denies that it is a “health insurance carrier” and denies that it made payments for medical care provided to Nathan Jackson or other putative plaintiffs or received refunds due to credit balances on such patient’s accounts. MBA further denies that Third-Party Plaintiffs have any contracts or agreements of any kind with MBA and denies that MBA has requested, required and/or accepted refund payments from any of the Defendant/Third-Party Plaintiffs pursuant to a “health insurance

plan” or otherwise. MBA is otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Section III of the Third-Party Complaint.

IV.

5. With respect to the allegations contained in Section IV of the Third-Party Complaint, MBA is without knowledge or information sufficient to form a belief as to whether Third-Party Plaintiffs are liable for any damages to Plaintiff. MBA denies that Third-Party Plaintiffs are entitled to contribution or indemnity from MBA or that Third-Party Plaintiffs are entitled to recover anything from MBA on any other legal theory.

V.

6. MBA is without knowledge or information sufficient to form a belief as to the truth of the factual allegations contained in Section V of the Third-Party Complaint. No response is required to the legal assertions contained in Section V of the Third-Party Complaint.

7. MBA denies that Third-Party Plaintiffs are entitled to any relief whatsoever from MBA.

8. All allegations contained in the Third-Party Complaint not specifically admitted are denied.

AFFIRMATIVE DEFENSES

9. Third-Party Plaintiffs’ claims against MBA must be dismissed because MBA does not operate a health insurance plan and did not provide health benefits coverage to Nathan Jackson or any other putative plaintiff at any time relevant to this lawsuit, nor has the MBA had any contract or agreement or other business or interaction of any kind with Third-Party Plaintiffs at any time relevant to this lawsuit.

10. Third-Party Plaintiffs' Complaint fails to state a claim upon which relief may be granted against the MBA.

11. Any damages allegedly sustained by Third-Party Plaintiffs, if any be proved, were caused in whole or part by the culpable conduct of Plaintiffs, Third-Party Plaintiffs, or other third parties or instrumentalities over whom MBA had no right or control and, therefore, the amount of any damages otherwise recoverable against MBA should be extinguished or reduced in comparative proportion to the culpable conduct of Plaintiff, Third-Party Plaintiffs or any other third parties.


12. Third-Party Plaintiffs' damages, if any be proved, should be reduced by the amount attributable to Plaintiff's or Third-Party Plaintiffs' failure to mitigate damages.

13. On information and belief, Third-Party Plaintiffs' claims against MBA are barred by the doctrines of estoppel, waiver, laches and unclean hands.

WHEREFORE, PREMISES CONSIDERED, Defendant MBA prays that it be granted judgment, that Third-Party Plaintiffs take nothing and that MBA recover its fees and costs of court and be awarded such other and further relief to which it may be justly entitled.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Dimitri Zgourides, certify that a true and correct copy of the foregoing document was served upon counsel of record by certified mail, return receipt requested, on this 7th day of September, 2000, addressed as follows:

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